

FLORIDA | Board of Chiropractic Medicine

DRAFT MINUTES

January 9, 2015

Orlando, Florida



Kevin Fogarty, D.C., F.I.C.A.(hon)

Chair

Danita Heagy, D.C.

Vice-Chair

Adrienne Rodgers, BSN, J.D.

Executive Director

1 The meeting was called to order by Dr. Fogarty, Chair, at approximately 8:33 a.m. Those present for all or part of the
2 meeting included the following:
3

4 **General Board Business started: 8:33 a.m.**

5
6 **MEMBERS PRESENT:**

7 Kevin Fogarty, D.C., F.I.C.A.(hon), **Chair**
8 Danita Heagy, D.C., **Vice Chair**
9 Christopher Fox, D.C., A.T.C.
10 Ken Dougherty, D.C.
11 Julie Hunt, D.C.
12 David Colter, Consumer Member
13 Ruth Pelaez, Consumer Member
14

STAFF PRESENT:

Adrienne Rodgers, Executive Director
Michele Jackson, Regulatory Supervisor/Consultant
Edith Rogers, Administrative Assistant II
Towanda Burnett, Compliance Officer

15 **BOARD COUNSEL:**

16 Deborah Bartholow Loucks, Assistant Attorney General
17 Office of Attorney General
18

19 **PROSECUTION COUNSEL:**

20 Tari Rossitto-Van Winkle, Assistant General Counsel
21 Sharmin Hibbert, Prosecution Services Section Manager
22 Department of Health, Office of the General Counsel
23

24 **COURT REPORTER:**

25 American Court Reporting
26 (407) 896-1813
27

28 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline.*

29 *AUDIO from this meeting can be found online:*

30 <http://floridaschiropracticmedicine.gov/meeting-information/>
31

32 **General Board Business started at 8:32 a.m.**

33 **Section II started at 8:34 a.m.**

34
35 **II. APPROVAL OF MINUTES**

36
37 **October 31, 2014, Full Board Meeting**

38
39 Minutes of the October 31, 2014 General Business Meeting were reviewed.

40 Dr. Dougherty noted the following corrections had been made to the minutes: Cover page was changed to reflect
41 that the Vice Chair was Danita Heagy. Dr. Dougherty requested that the movant be named in the minutes. Dr.
42 Fogarty requested that there be identification of any speaker in opposition.
43

44 Dr. Fogarty noted to substitute Dr. Dougherty for Dr. Fogarty as being recused due to participation on the Probable
45 Cause Panel.
46

47 Mr. Colter stated that on Page 11 his name is misspelled
48

49 Dr. Fogarty noted that, in particular Page 5, the line numbers are not correctly shown.

50 On page 5, line 40, Dr. Fogarty asked the record to reflect that he noted x-ray error, not Dr. Dougherty.

51 Dr. Fogarty noted on page 9 that the second set of lines 0-3 are duplicates
52

53 Ms. Loucks asked to have Octavio Simones-Ponce added to those in attendance at the meeting.

1 Motion to accept the minutes as amended was made by Dr. Heagy and seconded by Dr. Fox

2
3 Vote: 7 yeas / 0 opposed; Motion carried

4
5 **Section II concluded at 8:39 a.m.**

6 **Section I and II - Discipline proceedings commenced at 8:39 a.m.**

7
8 **II. FINAL ORDER ACTIONS**

9
10 **a. Informal Hearing – No Disputed Issues of Material Facts:**

11 **i. Hermann J. Diehl, D.C. - Case Number 2013-17283**

12 Dr. Dougherty was recused due to participation on the Probable Cause Panel.

13 Respondent was not present and was represented by counsel, Edwin Bayó.

14
15
16 An Administrative Complaint filed by the Department charged Respondent with violation of sections
17 460.413(1)(c), (ff) and s. 456.072(1)(ll), Fla. Stat., by being convicted of a crime related to the practice of
18 Chiropractic Medicine being Mail Fraud in violation of 18 USC 1349, conspiracy to commit money
19 laundering in violation of 18 USC 1956 and 1341, and money laundering in violation of 18 USC 1341 and
20 1956.

21
22 Motion that the Board accept into evidence the investigative file made by Dr. Heagy second by Dr. Hunt

23 Vote: 6 yeas / 0 opposed; motion carried

24
25 Motion that Respondent filed an Election of Rights and requested an informal hearing made by Dr. Hunt and
26 seconded by Mr. Colter.

27 Vote: 6 yeas / 0 opposed; motion carried

28
29 Motion to accept the findings of fact as stated in the Administrative Complaint was made by Dr. Heagy,
30 second by Dr. Fox

31 Vote: 6 yeas / 0 opposed; motion carried

32
33 Mr. Bayó provided information the board that Respondent was incarcerated. Asked for suspension until he
34 appears before the board and can present his case to the board. Respondent was the only defendant in the
35 underlying case against whom criminal counts were dropped. Respondent will be incarcerated for
36 approximately 18 months.

37
38 Ms. Loucks advised the board that there could be a suspension until Respondent could appear. At the time he
39 returns the board could determine whether discipline should be imposed. Mr. Bayó then requested the matter
40 be tabled until Respondent could appear. Respondent could practice until there is discipline on the license if
41 the board chooses to table the matter.

42
43 Dr. Heagy expressed concern that Respondent could return to practice without discipline until the board met
44 and discipline was imposed. Dr. Hunt and Dr. Fox concurred.

45
46 Motion to adopt the conclusions of law, as stated in the Administrative Complaint made by Dr. Fox, second
47 by Dr. Heagy.

48 Vote: 6 yeas / 0 opposed; motion carried

49
50 Motion that findings of fact support the violation of the Practice Act as charged in the Administrative
51 Complaint made by Dr. Hunt, second by Dr. Fox.

52 Vote: 6 yeas / 0 opposed; motion carried

1 Department recommendation for discipline: revocation.

2
3 Ms. Loucks provided an explanation of how the Board would determine alternatives for the recommended
4 discipline.

5
6 Motion to impose discipline as recommended by the Department, made by Dr. Hunt.

7 Mr. Bayó asked that the Board not make it a permanent revocation. Ms. Loucks stated that the statutes
8 related to this violation do not preclude renewal; however, Chapter 456, Fla. Stat. does not have a provision
9 for allowing reinstatement.

10 Second of the motion to revoke by Mr. Pelaez.

11 Mr. Colter spoke against the motion, stating he would prefer to hear directly from the Respondent before
12 deciding on disciplinary measures.

13
14 Vote: 4 yeas / 2 opposed Mr. Colter and Dr. Heagy; motion carried

15
16 Department recommendation: Waive costs.

17
18 **ii. Kenneth Gerard Karow, D.C. - Case Number 2013-07928**

19 Dr. Dougherty was recused due to participation on the Probable Cause Panel.

20 Respondent was not present and was not represented by counsel.

21
22 An Administrative Complaint filed by the Department charged Respondent with violation of section
23 460.413(1)(c), and ss. 456.072(1)(c) and (II), Fla. Stat., by being convicted of a crime related to the practice
24 of Chiropractic Medicine being Mail Fraud in violation of 18 USC 1349, conspiracy to commit money
25 laundering in violation of 18 USC 1956 and 1341, and money laundering in violation of 18 USC 1341 and
26 1956.

27
28 Motion that the Board accept into evidence the investigative file made by Mr. Pearez, second by Dr. Fox.

29 Vote: 6 yeas / 0 opposed; motion carried

30
31 Motion that Respondent filed an Election of Rights and requested an informal hearing made by Dr. Heagy
32 and seconded by Dr. Hunt.

33 Vote: 6 yeas / 0 opposed; motion carried

34
35 Motion to accept the findings of fact and conclusions of law as stated in the Administrative Complaint was
36 made by Dr. Heagy, second by Dr. Hunt.

37 Vote: 6 yeas / 0 opposed; motion carried

38
39 Motion that findings of fact support the violation of the Practice Act as charged in the Administrative
40 Complaint made by Dr. Hunt, second by Dr. Heagy.

41 Vote: 6 yeas / 0 opposed; motion carried

42
43 Department recommendation for discipline: revocation

44
45 Motion to impose discipline as recommended by the Department made by Dr. Hunt, second by Dr. Heagy.

46 Vote: 6 yeas / 0 opposed; motion carried

47
48 Department recommendation regarding costs: withdrawn

49
50 **b. Informal Hearing – No Disputed Issues of Material Facts**

51 **i. Eric Alexis Wiegandt, D.C. – Case Number 2014-09884**

52 Dr. Dougherty was recused due to participation on the Probable Cause Panel.

53 Respondent was not present and was not represented by counsel.

1 An Administrative Complaint filed by the Department charged Respondent with violation of section
2 460.413(1)(l), (ff) and s. 456.057(6), Fla. Stat., by failing to timely provide medical records to a patient.

3
4 Motion that the Board accept into evidence the investigative file made by Dr. Heagy second by Dr. Hunt.
5 Vote: 6 yeas / 0 opposed; motion carried
6

7 Motion that Respondent filed an Election of Rights and requested an informal hearing made by Dr. Heagy,
8 second by Dr. Fox.

9 Vote: 6 yeas / 0 opposed; motion carried
10

11 Motion to accept the findings of fact and the conclusions of law as stated in the Administrative Complaint
12 was made by Dr. Hunt second by Ms. Pelaez.

13 Vote: 6 yeas / 0 opposed; motion carried
14

15 Motion that findings of fact support the violation of the Practice Act as charged in the administrative
16 complaint made by Mr. Colter, second by Dr. Heagy.

17
18 Vote: 6 yeas / 0 opposed; motion carried
19

20 Department recommendation for discipline: Revocation based on aggravating factors.
21

22 Ms. Loucks advised the board that it could look at the number of previous offenses, but not at whether he is or
23 is not in compliance with those orders in considering aggravating factors. Respondent not being present in
24 this matter cannot be considered as an aggravating factor; technically even looking at other cases presented
25 today cannot count for today's consideration of aggravating factors because Respondent has a right to appeal.
26

27 Motion to impose discipline as recommended by the Department based on aggravating factors in this case,
28 which were the number of previous discipline actions, the patient was unable to proceed with her care, and the
29 existence of related violations, made by Dr. Fox, second by Dr. Hunt.

30 Vote: 6 yeas / 0 opposed; motion carried
31

32 Department recommendation: withdrawn
33

34 **ii. Eric Alexis Wiegandt, D.C. – Case Number 2014-10450**

35 Dr. Dougherty was recused due to participation on the Probable Cause Panel.

36 Respondent was not present and was not represented by counsel.
37

38 An Administrative Complaint filed by the Department charged Respondent with violation of section
39 460.413(1)(v), Fla. Stat., by failing to comply with the terms and conditions of Final Order DOH-14-0643-
40 FOI-MQA in case number 2013-14073.
41

42 Motion that the Board accept into evidence the investigative file made by Dr. Hunt, second by Ms. Pelaez.
43

44 Vote: 6 yeas / 0 opposed; motion carried
45

46 Motion that Respondent filed an Election of Rights and requested an informal hearing made by Dr. Hunt and
47 seconded by Dr. Heagy.

48 Vote: 6 yeas / 0 opposed; motion carried
49

50 Motion to accept the findings of fact as stated in the Administrative Complaint and the conclusions of law
51 was made by Dr. Fox, second by Dr. Hunt.

52 Vote: 6 yeas / 0 opposed; motion carried
53

1 Motion that findings of fact support the violation of the Practice Act as charged in the Administrative
2 Complaint made by Dr. Heagy, second by Mr. Colter.
3 Vote: 6 yeas / 0 opposed; motion carried
4

5 Department recommendation for discipline: Revocation based on this being a third offense.
6

7 Motion to impose discipline as recommended by the Department made by Dr. Heagy, second by Dr. Hunt.
8 Vote: 6 yeas / 0 opposed; motion carried
9

10 Department recommendation: withdrawn
11

12 **iii. Eric Alexis Wiegandt, D.C. – Case Number 2014-10453**

13 Dr. Dougherty was recused due to participation on the Probable Cause Panel.
14 Respondent was not present and was not represented by counsel.
15

16 An Administrative Complaint filed by the Department charged Respondent with violation of section
17 460.413(1)(v), Fla. Stat., by failing to comply with the terms and conditions of Final Order DOH-12-0478-
18 FOI-MQA in case number 2010-08957.
19

20 Motion that the Board accept into evidence the investigative file made by Dr. Fox, second by Dr. Hunt.
21 Vote: 6 yeas / 0 opposed; motion carried
22

23 Motion that Respondent filed an Election of Rights and requested an informal hearing made by Dr. Heagy and
24 seconded by Ms. Pelaez.
25 Vote: 6 yeas / 0 opposed; motion carried
26

27 Motion to accept the findings of fact as stated in the Administrative Complaint and the conclusions of law
28 was made by Ms. Pelaez, second by Dr. Fox.
29 Vote: 6 yeas / 0 opposed; motion carried
30

31 Motion that findings of fact support the violation of the Practice Act as charged in the Administrative
32 Complaint made by Dr. Fox, second by Dr. Heagy.
33 Vote: 6 yeas / 0 opposed; motion carried
34

35 Department recommendation for discipline: Revocation
36

37 Motion to impose discipline as recommended by the Department, made by Dr. Fox second by Dr. Hunt.
38 Vote: 6 yeas / 0 opposed; motion carried
39

40 Department recommendation regarding costs: withdrawn
41

42 **iv. Eric Alexis Wiegandt, D.C. – Case Number 2014-09419**

43 Dr. Dougherty was recused due to participation on the Probable Cause Panel.
44 Respondent was not present and was not represented by counsel.
45

46 An Administrative Complaint filed by the Department charged Respondent with violation of section
47 456.057(6) and ss. 460.413(1)(i) and (ff), Fla. Stat., by failing to timely release patient medical records.
48

49 Motion that the Board accept into evidence the investigative file made by Dr. Hunt, second by Dr. Fox.
50 Vote: 6 yeas / 0 opposed; motion carried
51

52 Motion that Respondent filed an Election of Rights and requested an informal hearing made by Dr. Fox and
53 seconded by Ms. Pelaez.

1 Vote: 6 yeas / 0 opposed; motion carried

2
3 Motion to accept the findings of fact as stated in the Administrative Complaint and the conclusions of law
4 was made by Dr. Heagy, second by Mr. Colter.

5 Vote: 6 yeas / 0 opposed; motion carried

6
7 Motion that findings of fact support the violation of the Practice Act as charged in the Administrative
8 Complaint made by Dr. Hunt, second by Dr. Fox.

9 Vote: 6 yeas / 0 opposed; motion carried

10
11 Department recommendation for discipline: revocation

12
13 Motion to impose discipline as recommended by the Department, made by Dr. Hunt second by Ms. Pelaez,
14 based on the same aggravating factors as presented in **Case Number 2014-09884**

15 Vote: 6 yeas / 0 opposed; motion carried

16
17 Department recommendation: withdrew

18
19 **c. Voluntary Relinquishment of License:**

20
21 **Michael Kelly Miller, D.C. – Case Number 2014-06764**

22 Dr. Fox was recused due to participation on the Probable Cause Panel.

23 Respondent was not present and was represented by counsel, Edwin Bayó.

24
25 Dr. Miller entered a plea to health care fraud, and the plea agreement required him to relinquish his license to
26 practice chiropractic medicine. There was a pending Administrative Complaint charging him with the entry of
27 the plea; therefore, he cannot provide an administrative Voluntary Relinquishment. Dr. Miller requested this
28 late submission for Board action due to his was being scheduled for sentencing at the end of January 2015 and
29 the need to show the Court at that time that he had relinquished his license.

30
31 Motion that the Board accept into evidence the investigative file made by Dr. Dougherty, second by Dr. Hunt.

32 Vote: 6 yeas / 0 opposed; motion carried

33
34 Motion to accept the Voluntary Relinquishment made by Dr. Dougherty, second by Mr. Colter.

35 Vote: 6 yeas / 0 opposed; motion carried

36
37
38 **I. PROSECUTION REPORT**

39 Motion to allow Department Prosecution Services to continue prosecution of cases older than one-year made by Dr.
40 Hunt, seconded by Dr. Heagy.

41 Vote: 7 yeas / 0 opposed; motion carried

42
43 **Section I and II Disciplinary proceedings concluded at 9:34 a.m.**

44
45 **General Business resumed at 9:34 a.m.**

46 **Section III commenced at 9:34 a.m.**

47
48 **III. PETITION FOR DECLARATORY STATEMENTS**

49 **David Otto, D.C.**

50 Petitioner was present and was not represented by counsel. Dr. Heagy stated she knew Dr. Otto but believed she
51 could make an impartial decision regarding this matter.

1 Petitioner sought a declaratory statement from the Board stating (1) he was permitted under the Chiropractic
2 Medicine practice act to advertise as a Nutrition Expert or other similar communication, since he was as a
3 graduate of Functional Medicine University, and was Board Certified in Nutrition; (2) the current scope of
4 practice in Chiropractic Medicine includes nutritional counseling; (3) the language permitted to be used in
5 advertising his nutritional expertise. Ms. Loucks provided guidance to the board regarding the board's authority
6 and consideration for declaratory statements.
7

8 The Board opined that allowing the use of the term "expert" in advertising because of one's training would open
9 an array of difficulties.

10 Ms. Loucks advised that the Board could not give specific words that could be used in an advertisement, the
11 Board could and had informed Dr. Otto of the limitations of the rule. Ms. Loucks referred the petitioner to section
12 (e) of the rule and clarified that the rule related to advertising, whether orally, in writing, or otherwise.
13

14 Mr. Bayó provided the opinion that so long as somewhere in the name, or its ownership designation, the
15 practitioner used the designation of chiropractor or D.C. that would meet the requirements of the rule.
16

17 The Board declined to issue a declaratory statement.
18

19 **Section III concluded at 9:52 a.m.**

20 **Section IV commenced at 9:52 a.m.**
21
22

23 **IV. PETITION FOR REINSTATEMENT**

24 Donald N. Anglin, D.C.

25 Petitioner was not present and was not represented by counsel.
26

27 Petitioner has been on probation as a result of discipline in case number 2013-19483, which placed him on
28 suspension for violation of a Final Order in case number 2007-38862. In October 2014 Petitioner paid the fines
29 and costs imposed and, in September 2009, completed the continuing education courses required under the Final
30 Order in case number 2007-38862. He was granted an extension of time to comply with identifying and putting
31 in place a practice management consultant in that case. Petitioner's license was to be suspended until the payment
32 of fines and costs in case number 2007-38862. Petitioner has paid the fine imposed in case number 2013-19483,
33 payment costs was not yet due and payable, and continuing education courses are not due to be completed until
34 2015. Petitioner requested termination of his suspension.
35

36 Ms. Burnett stated that Dr. Anglin was in compliance and all fines have been paid that were due at the time of this
37 action. Dr. Dougherty expressed concern over the continuity of care for Petitioner's patients and stated that if
38 there was a plan in place and fine was paid; then suspension should be lifted.
39

40 Dr. Fogarty expressed concern about controlled substance use while practicing. Dr. Heagy asked if the use of
41 controlled substances automatically meant there was an impairment, to which Ms. Loucks and Mr. Colter replied
42 it is not automatic. Mr. Colter stated the record showed Petitioner was taking responsibility for his patients' care
43 and asked if a monitor could be put in place. Ms. Loucks reported that the terms of the Final Order, which
44 included a monitor to help with the transition to active practice, would be in place, and reminded the Board that
45 they had no evidence that petitioner could not practice with skill and safety.
46

47 Motion to reinstate of Petitioner's license to active status made by Dr. Fox, second by Dr. Heagy, with final
48 payment due one year from date he notifies the Board that he had entered into active practice.
49

50 Vote: 7 yeas / 0 opposed; motion carried
51

51 **Section IV concluded at 10:04 a.m.**

52 **Break for 15 minutes**

53 **Section V commenced at 10:25 a.m.**

1 **V. PETITION FOR EARLY TERMINATION OF PROBATION:**

2 **Fred H. Quintana, D.C.**

3 Petitioner was present but was not represented by counsel, Henry M. Rubenstein. Other representative: Dr.
4 Thomas A. Maguire, monitor, was not present.

5
6 Petitioner requested early termination of his probation monitoring requirements imposed under the Final Order in
7 case number 2007-15322. Under the terms of the Final Order, monitoring was to continue through April 26,
8 2016; however, Respondent was given the right to petition for early termination after 2½ years of monitoring. The
9 monitor expressed support of early termination.

10
11 Ms. Burnett reported that Petitioner was in compliance with all terms of his Final Order. Dr. Dougherty confirmed
12 Petitioner's attendance at the board meetings.

13
14 Motion to approve early termination of probation made by Dr. Dougherty, second by Dr. Fox.

15 Vote: 7 yeas / 0 opposed; motion carried

16
17 **Section V concluded at 10:30 a.m.**

18 **Section VI commenced at 10:30 a.m.**

19
20 **VI. PETITION FOR VARIANCE/WAIVER**

21 a. **Mathew Faris, D.C. – Rule 64B2-13.004, F.A.C.**

22 Petitioner lives out of state and so was not present for the meeting.

23
24 Petitioner requested a variance/waiver of compliance with the required continuing education hours for the period
25 of April 1, 2012 through March 31, 2014. Petitioner acquired 15 hours of continuing education hours in Michigan
26 but failed to confirm that the hours were also approved for meeting the Florida continuing education hours. As a
27 result, Petitioner had only 27 of the required 40 hours for renewal of his Florida license. Petitioner believes that he
28 met the requirement of establishing that he satisfied the requirements of the statute by other means, and enforcing
29 the rule as to this Petitioner would create an undue hardship.

30
31 Dr. Dougherty believed this was an honest mistake and would recommend giving an extension of time to
32 complete the 13 hours of continuing education Petitioner is short. Dr. Heagy concurred.

33
34 Motion to deny Petition for Variance/Waiver made by Dr. Dougherty, and seconded by Dr. Heagy based on
35 Petitioner's failing to satisfy the requirements of the statute by other means because the courses are not board
36 approved and give Petitioner one year from the date the Final Order is entered to satisfy the requirements of
37 continuing education.

38 Vote: 7 yeas / 0 opposed; motion carried

39
40 b. **John Peter Christensen, D.C.**

41 Petitioner was not present and was not represented by counsel.

42
43 Petitioner requested a variance/waiver of compliance with rules 64B2-13.004(1), 64B2-13.0045(2) and 64B2-
44 13.0045(5), F.A.C. Petitioner is on pre-trial house arrest and cannot comply with in-person classroom continuing
45 education hours. As an alternative, Petitioner completed online courses to satisfy the 40-hours continuing
46 education required for renewal of his license. Petitioner believes that he met the requirement of establishing that
47 he satisfied the requirements of the statute by other means, and enforcing the rule as to this Petitioner would
48 create an undue hardship.

49
50 Motion to deny Petition for Variance/Waiver made by Dr. Fox and seconded by Dr. Hunt based on Petitioner's
51 failing to satisfy the requirements of the statute by other means because the courses are not board approved. The
52 Board suggested that Petitioner could place his license on inactive status.

53 Vote: 7 yeas / 0 opposed; motion carried

1 **c. Raphael John Piana, D.C.**

2 Petitioner was present and was represented by counsel, Edwin A. Bayó.

3
4 Petitioner requested a variance/waiver rule 64B2-17.003, F.A.C. Petitioner attended a 300-hour acupuncture
5 course from 2008 to 2009 given by the International Academy of Chiropractic Acupuncture (IACA). IACA is not
6 an approved provider in Florida. Petitioner has not complied with the Certification requirements under the rule;
7 however, Petitioner believes that he met the requirement of establishing that he satisfied the requirements of the
8 statute by other means, and enforcing the rule as to this Petitioner would create an undue hardship.

9
10 Ms. Loucks gave the current statutory and regulatory grounds for acupuncture certification. Mr. Bayó stated that
11 Petitioner has 300 hours of education in acupuncture, which is in excess of that required. Ms. Loucks advised that
12 the Board cannot grant a variance for past conduct. If Petitioner's education was comparable to that under rule,
13 then the Board can waive the certifying examination. Mr. Bayó stated the national board accepted the credentials
14 without the examination.

15
16 Motion to approve the Petition for Variance/Waiver made by Dr. Fox, second by Dr. Dougherty based on
17 Petitioner's satisfying the requirements of the statute by other means, and enforcing the rule as to this applicant
18 would create an undue hardship.

19 Vote: 7 yeas / 0 opposed; motion carried

20
21 **Section VI concluded at 10:46 a.m.**

22 **Section VII commenced at 10:46 a.m.**

23
24
25 **VII. APPLICANTS PRESENTED FOR BOARD REVIEW**

26 **a. Juan Castaneda** – application for Registered Chiropractic Assistant

27 Applicant was not present and was not represented by counsel.

28
29 Applicant's application was presented to the Board at the June 6, 2014 meeting. Applicant was required to appear
30 at one of the next two Board meetings, and did not attend either the August 8, 2014 or the October 31, 2014
31 meeting.

32
33 Petitioner had failed to appear as ordered by the Board, and his personal history was concerning.

34
35 Motion to deny application for Registered Chiropractic Assistant made by Dr. Hunt, second by Dr. Fox.

36 Vote: 7 yeas / 0 opposed; motion carried

37
38 **b. Pedro Gonzales** – application for Registered Chiropractic Assistant

39 Applicant was not present and was not represented by counsel.

40
41 Applicant was unable to provide documentation of licensure from Cuba or South Africa where he alleges he held
42 a license as a medical doctor and these licenses are current. Applicant had provided confirmation of certification
43 of First Degree Specialist in General surgery in the Republic of Cuba from October 1977, and a registration
44 number as a medical practitioner from the Health Professions Council of South Africa.

45
46 Motion to grant application for Registered Chiropractic Assistant made by Dr. Heagy and seconded by Mr. Colter.

47 Vote: 7 yeas / 0 opposed; motion carried

48
49 **c. Morgan Elizabeth McKibben** – application for Registered Chiropractic Assistant

50 Applicant was not present and was not represented by counsel.

51
52 Applicant answered in the affirmative to health history question number 1 on the application.

1 Dr. Dougherty expressed concern about the brevity of treatment for the condition.

2
3 Motion to deny application for Registered Chiropractic Assistant made by Dr. Dougherty, second by Dr. Hunt
4 based on Petitioner's failing to prove she could practice with skill and safety.

5 Vote: 7 yeas / 0 opposed; motion carried
6

7 **Section VII concluded at 10:53 a.m.**

8 **Section VIII commenced at 10:53 a.m.**
9

10
11 **VIII. DISCUSSION REGARDING LAWS AND RULES EXAMINATION**

12 Zohre Bahrayni, Ph.D., Psychometrician – Operational Support Services; Moving the Laws and Rules
13 Examination to Continuing Education; Rule 64B2-11.001, F.A.C.
14

15 Dr. Shreeve spoke on behalf of Palmer Chiropractic College. He stated that part of the curriculum is the
16 Florida laws and rules examination.

17 Dr. Dougherty was concerned that out of state colleges may not provide that opportunity and changing from
18 the current examination could create a financial burden for the applicant. He asked if the current situation
19 caused staffing problems.

20 Mr. Paul Lambert and Ms. Lily Montoya addressed the Board. Mr. Lambert suggested that the Board define
21 the minimum elements for an applicant to demonstrate in Florida laws and rules and have the entry level
22 course/test be designed around those elements; also that individuals retain information better when presented
23 as a story. Ms. Montoya stated that providing a course and examination would not be problematic once the
24 Board sets the guidelines.

25 Ms. Rodgers stated that the concern was more about the delay for the applicants than any staffing issue.

26 Ms. Loucks raised the question of whether this profession's statute required a certain examination.
27

28 Board determined that the current Laws and Rules Examination should stay in place at this time but a rules
29 committee meeting should be scheduled and Board members may submit suggestions to Ms. Loucks. Ms.
30 Loucks can then draft language for the next meeting.
31

32 **Section VIII concluded at 11:25 a.m.**

33 **Section IX commenced at 11:25 a.m.**
34
35

36 **IX. RATIFICATION OF LICENSURE**

37 1. Chiropractic Physicians – CH 11323 through CH 11359

38 Motion made to ratify issuance of Chiropractic Physicians license numbers CH 11323 through CH 11359.

39 Motion to approve made by Dr. Heagy, second by Dr. Fox.

40 Vote: unanimous; motion carried
41

42 2. Registered Chiropractic Assistants – RCA 13402 through RCA 13557

43 Motion made to ratify issuance of Registered Chiropractic Assistants RCA 13402 through RCA 13557

44 Motion to approve made by Dr. Dougherty, second by Mr. Colter.

45 Vote: unanimous; motion carried
46

47 3. Certified Chiropractic Physician Assistants – CI 775 through CI 781

48 Motion made to ratify issuance of Certified Chiropractic Physician Assistants license numbers CI 775 through CI 781.

49 Motion to approve made by Dr. Dougherty, second by Dr. Hunt.

50 Vote: unanimous; motion carried
51

52 **Section IX concluded at 11:26 a.m.**

53 **Section X commenced at 11:26 a.m.**

1 **X. CHAIR/VICE-CHAIR REPORT**

2 Dr. Fogarty requested that Board staff send a copy of the authorization for FCLB travel to him.

3
4 **Section X concluded at 11:27 a.m.**

5 **Section XI commenced at 11:27 a.m.**

6
7
8 **XI. EXECUTIVE DIRECTOR’S REPORT**

9 a. Eliminating Interview Process for Certified Chiropractic Physician Assistant Licensure

10 i. Drs. Dougherty, Heagy and Fogarty spoke against the elimination of the interview process due to
11 fraud issues. The Board discussed supplementing the committee with former Board members to
12 hold interviews. Ms. Loucks stated the Committee Chair had authority to supplement the
13 committee with former Board members to hold interviews.

14
15 b. FY 2014-2015: License Annual Report Review

ED	Brd Code	Client Code	Profession	In State Active	In State Inactive	In State Delinquent	Out of State Active	Out of State Inactive	Out of State Delinquent	Military Active	Retired	Total
Adrienne	8005	501	Chiropractic -	5,021	45	168	592	243	212	8	238	6,527
Adrienne	8005	502	Chiropractic -	2,883	0	0	6	0	0	0	0	2,889
Adrienne	8005	503	Chiropractic -	158	4	45	0	2	2	0	2	213
Adrienne	8005	506	Chiropractic -	7	0	0	1	0	0	0	0	8

16
17
18 **Section XI concluded at 11:36 a.m.**

19 **Section XII was not heard**

20 **Section XIII commenced at 11:36 a.m.**

21
22
23 **XIII. COMMITTEE REPORTS**

- 24 a. Budget – Mr. Colter reported the fiscal trend based on current income shows a deficit by 2019.
- 25 b. CCPA – Dr. Dougherty had nothing further to report.
- 26 c. Continuing Education – Drs. Heagy and Hunt:

27
28
29 **i. CE Provider: Get A Balanced Body, LLC -**

30 1. Introduction to Kettlebells #20-453348

31 Karen Sallape was present as the representative of Get a Balanced Body, LLC.

32
33 Motion by Dr. Hunt, second by Dr. Dougherty to deny course number 20-453348 based on the
34 failure to advance the practice of chiropractic medicine, and the presenter was not an educator
35 accredited by CCE. Ms. Loucks advised the Board that a provider could be a faculty member in a
36 secondary or chiropractic college. Ms. Sallape stated that Kettlebell is a rehabilitative measure for
37 patients and the chiropractor would be able to use this therapy for patient care. Dr. Dougherty
38 withdrew his second after the discussion.

39
40 Dr. Hunt and Dr. Heagy did not find a relation between Kettlebell and chiropractic medicine. Dr.
41 Fox stated he found it applicable as a low form of rehabilitation.

42
43 Motion to deny approval for course 20-453348 made by Dr. Hunt, second by Ms. Pelaez.

44 Vote 4 ayes / 3 opposed; motion carried

1 2. Cryotherapy #20-453346
2 Karen Sallape was present as the representative of Get a Balanced Body, LLC.
3 Motion to deny by Dr. Hunt, second by Dr. Heagy based on not providing sufficient information in
4 the 4 course hours requested.
5 Vote 4 ayes / 3 opposed; motion carried
6

7 3. Thai Bodywork #20-453336
8 Karen Sallape was present as the representative of Get a Balanced Body, LLC. Michele Dempsey
9 also spoke.

10
11 Dr Dougherty spoke in favor of approving the course. Ms. Dempsey stated the method taught was a
12 form of stretching. Dr. Fox spoke in opposition but recognizing the benefits of the treatment.

13
14 Motion by to deny made by Dr. Hunt, second by Mr. Colter based on not providing sufficient
15 information to support the 4 course hours requested.

16 Vote 3 yeas / 4 opposed; motion failed and course is approved.
17

18 ii. **CE Provider: Southern California University of Health Sciences**
19

20 1. SCU Extravaganza 2014 #20-461639
21 Dr. Heagy stated the course was given in October 2014 but submitted for approval just recently. Dr.
22 Fogarty asked to base the approval or denial on the content of the course. Dr. Heagy stated the ethics
23 hours related more to making the business profitable; PI practice effectiveness not related to the rule
24 requirements for approval.

25
26 Motion to deny made by Dr. Heagy, second by Dr. Dougherty.

27 Vote 7 yeas / 0 opposed; motion carried
28

29 iii. **Providers and Courses Approved by CE Committee**

30 Motion to ratify committee approvals made by Dr. Dougherty, seconded by Dr. Heagy.

31 Vote: 7 yeas / 0 opposed; motion carried
32

33 iv. **Petition for Variance/Waiver of Rule 64B2-13.004, F.A.C.:**
34

35 1. **CE Provider – Texas Chiropractic College**

36 Dr. Paul Jaskoviak was present on behalf of Texas Chiropractic College. Dr. Dougherty disclosed that
37 he had been a student to Dr. Jaskoviak but that he could be impartial in his consideration.
38

39 Petitioner did not receive approval for the following courses prior to presenting the courses for continuing
40 education credit in the state of Florida:

41 a. **Better Together #20-473390**

42 b. **Adrenal & Thyroid Health – Practical Application #20-472103**
43

44 Dr. Jaskoviak informed the Board that one course with similar circumstances had been approved in the
45 past.
46

47 Motion to approve a single Variance/Waiver made by Dr. Fox, second by Ms. Pelaez based on
48 Petitioner's satisfying the requirements of the statute by other means, and enforcing the rule as to this
49 applicant would create an undue hardship for the students taking the course.

50 Vote: 7 yeas / 0 opposed; motion carried
51

- 1 2. **CE Provider – National University of Health Sciences.** Dr. Dougherty disclosed that he is on the
2 Provider’s Board and recused himself.

3
4 National University of Health Sciences did not receive approval for the following courses prior to
5 presenting the courses for continuing education credit in the state of Florida:

- 6 a. Clinical Neurology #20-461922
7 b. Clinical Pharmacology I #20-461925: Dr. Heagy recommended denial
8 c. Clinical Pharmacology II #20-461931: Dr. Heagy recommended denial
9 d. Pediatrics #20-461932
10 e. Women’s and Men’s Health / Geriatrics #20-461934
11 f. Ethics and Risk Management #20-461935
12 g. Clinical Competencies #20-461938

13
14 Dr. Heagy recommended approval of all but #20-461925 and #20-461931 as a one-time measure. The
15 basis for denial of the two courses is that pharmacology is not part of the Florida Chiropractor’s scope of
16 practice.

17
18 Motion to approve #20-461922, #20-461932, #20-461934, #20-461935 and #20-461938 but to deny #20-
19 461925 and #20-461931 made by Dr. Heagy, second by Dr. Hunt based on Petitioner’s satisfying the
20 requirements of the statute by other means, and enforcing the rule as to this applicant would create an
21 undue hardship.

22 Vote: 6 yeas / 0 opposed; motion carried

- 23
24 d. Credentials – Dr. Fogarty had no report
25
26 e. Disciplinary Compliance – Dr. Fogarty had no additional report
27
28 f. Examination – Dr. Heagy reported a great experience at Palmer and encouraged anyone to become a
29 part of the experience.
30
31 g. Healthiest Weight – Dr. Hunt
32 i. Dr. Hunt had no additional report. Ms. Rodgers encouraged the Board to look at the handouts:
33 ii. Talking with Patients about Weight Loss: Tips for Primary Care Providers
34 iii. Choose MyPlate – 10 Tips to a Great Plate
35 iv. Moving Our State to its Healthiest Weight
36
37 h. Legislation – Dr. Heagy presented copies of the following:
38
39 i. FCLB PowerPoll results regarding licensure of foreign graduates
40 ii. FCLB PowerPoll results regarding Veterinary Chiropractic
41 iii. FCLB information regarding licensure of out-of-state applicants
42
43 i. Probable Cause – Drs. Dougherty/Fox/Heagy; Dr. Dougherty asked Board staff to update the PCP statistics
44 Stats
45
46 j. Rules – Dr. Hunt had no report. Ms. Loucks distributed copies of the rules that changed this past month
47 and informed the Board that the remaining rule, 64B2-13.004, F.A.C., regarding obtaining continuing
48 education credits, has a JAPC letter to be addressed.

49
50 In regard to rule 64B2-15.001, F.A.C., the International Chiropractic Pediatric Association has been added to
51 subparagraph (2)(e)1, and the change will become effective on January 27, 2015.
52

1 Regarding rule 64B2-13.004, F.A.C., subparagraph (4)(b)16 “Proprietary drug information” has been
2 removed and the remaining paragraphs renumbered; subparagraph (8) was deleted; subparagraph (11) was
3 amended to reflect “board approved”. The remaining amendments requested by the Board at its August 2014
4 meeting were the subject of a JAPC letter requesting statutory authority for the changes. Ms. Loucks advised
5 that she could not find statutory authority to grant current board members credit for serving on the Probable
6 Cause Panel, or for publication of professional articles. Ms. Loucks explained the next steps should the Board
7 pursue the excepted rule language.
8

9 Ms. Loucks queried the Board as to whether the rule, as presented, imposed additional costs, or adversely
10 impacted small businesses and whether the language imposed additional regulatory costs. The Board
11 determined no SERC was required.
12

13 Ms. Loucks suggested the Board look at adding Continuing Education hours for Board members to the
14 legislative changes under review.
15

16 k. Unlicensed Activity – Ms. Pelaez
17

18 **XIV. ADJOURNMENT 12:34 p.m.**
19

20 **General Board Business concluded at: 12:39 p.m.**

21 **The meeting was adjourned at 12:39 p.m.**